

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

2018 JAN 19 AM 8:42

DEPUTY CLERK

MICHAEL DEWAYNE WHALEY,
ID # 645333,
Plaintiff,

vs.

COURT OF CRIMINAL APPEALS, et al.,
Defendants.

No. 3:16-CV-3281-C

**ORDER ACCEPTING FINDINGS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

After reviewing all relevant matters of record in this case, including the Findings, Conclusions, and Recommendation of the United States Magistrate Judge and any objections thereto, in accordance with 28 U.S.C. § 636(b)(1), the Court is of the opinion that the Findings and Conclusions of the Magistrate Judge are correct and they are accepted as the Findings and Conclusions of the Court.¹

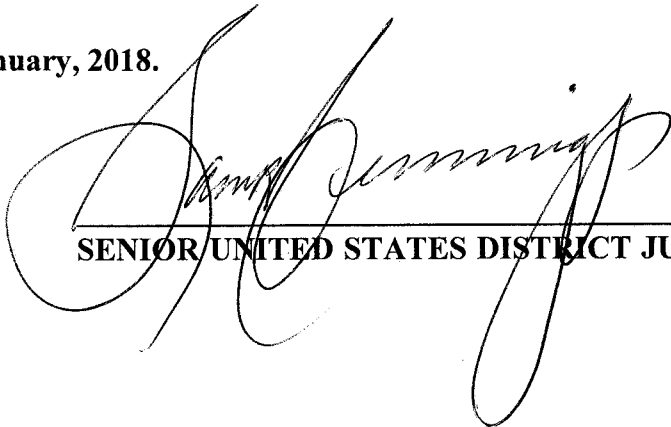
For the reasons stated in the Findings, Conclusions, and Recommendation of the United States Magistrate Judge, the post-judgment motion (doc. 31) is construed as a 28 U.S.C. § 2254 habeas petition. The Clerk of Court is **DIRECTED** to terminate the motion in this civil rights case; (2) open a new habeas case for administrative purposes only; (3) docket the motion in that new case as a § 2254 petition filed January 11, 2018; (4) directly assign the new case to the same District Judge and Magistrate Judge as in this case; (5) file in the new case a copy of the Findings,

¹The Court would normally allow the 14-day period for the filing of objections to expire before considering the Findings, Conclusions, and Recommendation of the United States Magistrate Judge. However, due to the sanctions issue present in the above-styled and -numbered civil action, the Court finds no just reason to delay adoption of the Findings, Conclusions, and Recommendation.

Conclusions, and Recommendation of the United States Magistrate Judge, this order accepting the Findings, Conclusions, and Recommendation, and a copy of the Fifth Circuit's sanctions order in No. 11-10180; and (6) **ADMINISTRATIVELY CLOSE** the new case for failure to comply with the sanctions order.

SO ORDERED.

SIGNED this 19th day of January, 2018.



SENIOR UNITED STATES DISTRICT JUDGE